IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1628 of 1995

Between:

1 Md. Tajunnisa, W/o. Hyder Saheb,
R/o. Nellore District.
2 Md. Asif Ahmed, W/o.Abdul Rahim,
R/o. Nellore District.
3 Md. Jameela Begum, W/o. Nooran Mohiddin,
R/o. Nellore District.
4 Md. Zeenath Begum, W/o.Abdul Kareem,
R/o. Nellore District.

..... PETITIONERS

AND

1 Addl. Revenue Divisional Officer (LR), Kavali,
Nellore District.
2 Addl. Revenue Divisional Officer (LR),
Nellore District.
3 Revenue Divisional Officer, Kavali,
Nellore District.
4 Mandal Revenue Officer, Kovur,
Nellore District.
5 Mandal Revenue Inspector, Kovur,
Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, especially a writ in the nature of a writ of Mandamus, declaring that the action of the respondents in initiating proceedings for effecting surrender and to take possession of the lands of the petitionrs measuring Ac.9-98 cents covered by Sy.No. 559 to 563, situated at Vegur(V),Kovur (M), Nellore District, including the impugned proceedings in Form-IX under Rule 8(1) of A.P. Land Reforms(Ceiling on Agricultural Holdings) Rules 1974 , are illegal, arbitrary,

discriminatory and without jurisdiction.

Counsel for the Petitioners: MR.P.SITARAMARAJU

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

During the pendency of the Writ Petition, the learned Counsel, who filed the Writ Petition, died; in that view of the matter, this Court by order dated 6-8-2004 directed the registry to issue notices to the petitioners. The said notices were returned, un-served, with postal endorsement, '*whereabouts of the petitioners are not known'*. In that view of the matter, as there is no appearance for the petitioners, the Writ Petition is disposed of on merits.

This Writ petition is filed seeking Writ of mandamus to declare the action of the respondents in initiating proceedings for effecting surrender and to take possession of the lands of the petitioners admeasuring Ac.9.98 cents covered by Sy.Nos. 559 to 563, situated at Vegur village, Kovur Mandal, Nellore District, including the impugned proceedings in Form-IX under Rule 8(1) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974, as illegal and arbitrary.

The above said lands originally belong to one Smt. Ponnaluru Vimalamma, who was the declarant in C.C.No.1815/75/KVR, on the file of the Land Reforms Tribunal, Kavali Division, Nellore District. The Land Reforms Tribunal has passed orders in the above said declaration, declaring that the declarant is holding land in excess of the ceiling limits. As no statement was filed, to surrender the excess land, proceedings were initiated under Section 10 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, and as the above said lands are in possession of the petitioners, petitioners were also given notice in Form-VIII, inviting objections. The petitioners claiming to be the owners and possessors of the lands in question, by virtue of their purchase by registered sale deed dated 27-3-1972, responded to the said notice in Form-VIII and filed their objections. The said objections have been

over-ruled on the ground that the alienations, were subsequent to 24-1-1971 and consequently, notice in Form-IX was issued to take over possession of the lands in question.

It is the case of the petitioners that they are the bonafide purchasers of the lands in question for valuable consideration from the original owner and possessor, Smt. Ponnaluru Vimalamma by registered sale deed dated 27-3-1972. In the affidavit filed in support of the Writ Petition, it is stated that they have filed explanation, but, no orders, alleged to have been passed under Section 10(4) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, are communicated them.

In the counter affidavit filed on behalf of the respondents, it is stated that in view of the provision under section 17(1) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, alienations made by the declarant are null and void; in that view of the matter, as the original declarant was found to be holding land in excess of the ceiling limits, as such, notice was given in Form-IX to take over possession of the lands, which are in possession of the petitioners.

In this Writ Petition, the petitioners have questioned the action of the respondents to take possession of the lands and notice issued in Form-IX under Rule 9(1) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974. From the counter affidavit, it is clear that after issuance of notice in Form-VIII, objections were filed by the petitioners before the primary authority. Though it is the case of the petitioners that no orders are served on them, but, at the same time, it is stated in the counter affidavit that after considering the objections filed by the petitioners and the orders under Section 10(4) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, were passed, and, consequential impugned notice is issued in Form-IX. If the petitioners are aggrieved by the orders passed under Section 10(4) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, it is for the petitioners to question the same, if the lands of the petitioners are wrongly chosen for surrender towards excess of the ceiling limits of the declarant, namely Smt. Ponnaluru Vimalamma. As such, without questioning the said orders passed under Section 10(4) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, where-

under the lands of the petitioners were chosen for surrender, the petitioners cannot question the consequential notice issued in Form-IX, to take possession of the said land. In that view of the matter, I do not find any merit in this Writ Petition for grant relief as prayed for. The Writ Petition is accordingly dismissed. However, it is made clear that the respondents shall serve the orders passed under Section 10(4) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, to the petitioners, by Registered Post Acknowledgement Due. It is also equally open for the petitioners to question the said orders.

Subject to the above observation, the Writ Petition is dismissed. No order as to costs.

January 17, 2005.

DR/Msnr.

To

1 Addl. Revenue Divisional Officer(LR), Kavali,
Nellore District.
2 Addl. Revenue Divisional Officer(LR),
Nellore District.
3 Revenue Divisional Officer, Kavali,
Nellore District.
4 Mandal Revenue Officer, Kovur,
Nellore District.
5 Mandal Revenue Inspector, Kovur,
Nellore District.

6 2CCs to Government Pleader for Revenue, High Court Buildings,

Hyderabad. (OUT)

7 2CD copies